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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE, Plaintiff and Respondent, v. JACQUES MAURICE CHAMPAGNE, Defendant and Appellant.	A121188 (Humboldt County Super. Ct. No. CR071718)

Defendant Jacques Maurice Champagne seeks reversal of a judgment of conviction below that followed his guilty plea. Defendant argues that the trial court should not have denied his motion to suppress evidence, apparently several hundred grams of methamphetamine, that was discovered in his pickup truck after a police stop. Defendant argues the stop violated his Fourth Amendment rights under the United States Constitution. We find no reason to reverse the trial court's conclusion that, based on a totality of the circumstances, the officer who ordered the stop had an objectively reasonable suspicion for doing so. Therefore, we affirm the judgment.

BACKGROUND

Defendant was charged in a five-count information with, in the order of the counts, transportation of methamphetamine in violation of Health and Safety Code section 11379, subdivision (b); possession of methamphetamine for sale in violation of Health and Safety Code section 11378; allowing a place for manufacture and storing of methamphetamine in violation of Health and Safety Code section 11366.5, subdivision

(a); cultivation of marijuana in violation of Health and Safety Code section 11358; and allowing a place for the manufacturing and storing of marijuana in violation of Health and Safety Code section 11366.5, subdivision (a). A probation ineligibility allegation accompanied the possession of methamphetamine for sale count and a firearm allegation accompanied the last four counts.

At the preliminary hearing on September 6, 2007, defendant moved to suppress evidence pursuant to Penal Code section 1538.5 on the ground that the evidence seized was obtained after his vehicle was stopped without reasonable suspicion. A magistrate denied the motion after an evidentiary hearing. Defendant later filed a motion to dismiss pursuant to Penal Code section 995 and renewed his motion to suppress evidence. After oral argument, the court took the motions under submission in order to read the transcript of a preliminary hearing. We now summarize the relevant parts of that transcript.

Nelson's Testimony

Agent Nelson testified that he was a special agent supervisor with the California Department of Justice, Bureau of Narcotic Enforcement. In late March 2007, he had several telephone calls in the course of a week with an individual whom Nelson identified as a "confidential informant" and a "confidential reliable informant." The individual contacted Nelson and said that defendant lived in the upper sawmill area of the Garberville, Alderpoint area, and was dealing in one-pound quantities of methamphetamine in that area. Nelson did not check the individual's record, but he and other officers Nelson worked with knew the individual by name. When asked about the individual's criminal background, Nelson invoked the informer privilege contained in Evidence Code section 1041.

Nelson further testified that, to his knowledge, the individual did not have a record and was not trying to attain favorable disposition of a case. At the hearing, Nelson was shown a statement of probable cause that was attached to the search warrant used to search defendant's residence after the traffic stop. The statement indicated that the individual was giving information in consideration for possible pending charges against him or her. Nelson testified that, unless he was "forgetting something," he did not

believe the individual was receiving compensation in a pending matter. Nelson did not think the deputy who wrote the search warrant had any information apart from that provided by Nelson and others involved in the investigation of defendant, and Nelson did not know how the officer could have interpreted the information given to them in such a manner. Nelson recalled conveying the information to the deputy over a cellular telephone from an area with bad reception.

On April 6, 2008, Nelson received a call from a second individual, who told him defendant drove a white pickup truck and was a "one pound . . . dealer" of methamphetamine. This individual identified himself or herself to Nelson, who testified that the person was a "citizen informant," which indicated that the person provided information without asking for anything in return. This second individual told Nelson that defendant was going to be staying at the Humboldt House Best Western (Best Western) over the weekend of April 7, 2008, and was "potentially brokering a large marijuana deal" at this hotel. Nelson tried to get in touch with this second individual after the initial phone call but was unable to reach the person.

Based on the information he had received, Nelson checked and found that defendant was listed in the Department of Motor Vehicles records as owning a 2006 Toyota pickup truck, and obtained the license plate number for that truck. He asked deputies in the area to periodically check for the pickup truck at the Best Western over the weekend of April 7, 2008. A deputy subsequently told Nelson that he saw the white truck parked in the Best Western's parking lot on Saturday,[1] but did not see the truck there when the deputy went by the next day. Nelson testified that, based on his training and experience, he thought it was common for narcotics dealers to stay in a hotel in the area where they lived and conduct drug transactions there in order to avoid bringing people into their homes, where their families and possessions were located.

On Monday morning, April 9, 2008, about 8:00 or 8:30 a.m., Nelson drove by the hotel and located the white Toyota pickup truck registered to defendant in the hotel's

[1] Nelson was at first unclear about whether it was Friday or Saturday, but indicated that it was on Saturday by the end of his testimony.

parking lot. He returned about 10:00 a.m. with another agent, Bryan Stephens, and set up a surveillance of the truck.

About 11:00 a.m., defendant went to the truck and drove it out of the parking lot. Defendant drove to the end of a dead-end road, parked, and walked towards a partially obscured residence. He reappeared less than 15 minutes later and went back to the hotel.

Fifteen minutes later, defendant left the hotel and drove to a nearby hardware store, re-emerging from the store with five or six cream colored buckets. He returned to the hotel and parked in the rear. He was next seen placing a large plastic bin and duffel bags into his truck. Nelson followed defendant as he drove to a gas station north of town, where Nelson observed him fuel his truck as he watched the traffic going by.

Defendant next drove toward Redwood Drive and turned onto Alderpoint Road. Nelson allowed defendant to get a good distance ahead of him and lost sight of the truck after it pulled onto Alderpoint Road. When Nelson turned onto Alderpoint Road, he did not see the truck and did not know if defendant had turned onto a side road or sped up. He picked up speed to try to find the truck, but did not. No more than a minute or two later, he heard over the radio that another agent, who he believed was Bates, "saw the white Toyota pickup come back onto Alderpoint Road and continue up towards Alderpoint." Not more than a minute or two later, Nelson heard Bates indicate over the radio that defendant had pulled off the road onto a turnout for a "very short stop," and was continuing along Alderpoint Road. When Nelson was asked what he observed at that point that indicated defendant had engaged in suspicious conduct, he stated:

"My first observation was that he was staying at a hotel in Garberville, and we—and I believe he lived in Garberville. His truck was there. I had information that he was—that myself or other officers had seen the vehicle there starting from Friday all the way to Monday. I saw numerous items like large—like the plastic bin, the large bags going into that vehicle, going to the gas station."

Nelson stated about defendant's traffic observations while fueling his truck:

"I believe [defendant] was watching the traffic on Redwood, and by watching the traffic and watching it continually that that was significant. That is something that people

do when they want to know if they are being followed. When he went up—when the vehicle traveled up Alderpoint Road another—something that is very common during counter surveillance is to pull off and basically watch to see if anyone is following your vehicle. He did that the first time that I went by and came back on to Alderpoint Road. Again, it wasn't like—the most direct route was not being followed. There was a reason for a pull off there. He pulled off a second time into the turnout. Again, that is a counter surveillance technique that people do when they want to know if they are being followed. He did that twice and came back out, and that is when I determined it was time to make a vehicle stop."

Nelson called for a marked sheriff's department vehicle to stop defendant's truck. Once the vehicle had been stopped, Nelson and Stephens approached the truck and smelled marijuana. Defendant was in the driver's seat and a woman was in the passenger seat. Nelson had not seen the woman in the truck before the stop. The agents detained defendant and the passenger and searched the truck, finding approximately one pound of what Nelson believed was methamphetamine. Defendant told the officers it belonged to him, not his passenger.

Nelson also testified that with his training and experience, he had been involved in following individuals and observing counter surveillance driving. Nelson testified that defendant's home was located on Upper Sawmill Road, off of Alderpoint Road, and that the route defendant took from the gas station to the area where the traffic stop occurred was consistent with driving to his home.

Bates's Testimony

Agent Gary Bates testified that he was employed with the Arcata Police Department, and assigned to the Humboldt County Drug Task Force. On the day in question, he was traveling up Alderpoint Road trying to catch up to Nelson when he saw defendant's vehicle come off a side road and onto Alderpoint Road in front of him. The vehicle proceeded up Alderpoint Road, and Bates followed 50 to 75 yards behind. He followed for "[m]aybe a couple of minutes." The driver then braked and made a quick turn into a turnout and stopped. He passed the vehicle and observed that there were two

people in it. Defendant was in the driver's seat and a female was in the passenger seat. Bates radioed that information. Defendant stayed in the turnout for 30 seconds to a minute.

Bates also participated in the search of the vehicle. He discovered what he believed was methamphetamine under the cup holder of the vehicle. Specifically, he found a large Ziploc baggie that weighed approximately 414 grams, and small plastic baggies that weighed .98, 9.62, 6.56, and 6.99 grams.

The Court's Ruling

After taking the matter under submission, the court issued a written order granting defendant's motion to dismiss with respect to counts three through five, but denying defendant's motion to suppress. In denying the motion to suppress, the court stated:

"1. Agent Nelson of the Humboldt County Drug Task Force testified that in March 2007, a confidential informant advised that the defendant was dealing in one pound quantities of methamphetamine in the Garberville/Alderpoint area of Humboldt County.

"2. Agent Nelson testified, further, that in April 2007, he was told by a second confidential informant that defendant was a one pound methamphetamine dealer and that defendant would be staying at the Humboldt House Best Western Inn over the weekend and potentially brokering a large marijuana transaction at that hotel.

"3. The information provided by the confidential informants was corroborated by law enforcement officers observing (a) defendant's vehicle at the Humboldt House Inn (although his residence was nearby); (b) defendant loading his vehicle with a large plastic bin and duffel bags; (c) defendant surveying or monitoring traffic while fueling his vehicle; and (d) defendant engaging in, arguably, counter-surveillance driving practices.

"4. Agent Nelson testified that he had a marked patrol car [stop] defendant's vehicle and that he detected the odor of marijuana emanating from said vehicle when he approached it.

"Given the totality of the circumstances, the motion to suppress evidence pursuant to Penal Code [section] 1538.5 is denied."

Defendant pled guilty to unlawful possession of methamphetamine for sale. The trial court sentenced him to three years in prison, but later recalled the sentence pursuant to Penal Code section 1170, subdivision (d), and granted him four years probation. Defendant filed a timely notice of appeal.

DISCUSSION

Defendant argues that the trial court committed reversible error by failing to grant his motion to suppress because the police stop violated his right under the Fourth Amendment of the United States Constitution to be free of unreasonable searches. Defendant contends the police did not have sufficient reasonable suspicion for the stop. We disagree.

We review the trial court's ruling based on the evidence presented at the hearing on defendant's motion to suppress, and review the court's findings regarding this evidence pursuant to a substantial evidence standard. (*In re Arturo D.* (2002) 27 Cal.4th 60, 77 & fn. 18.) We exercise our independent judgment in determining whether, on the facts found by the trial court, the search or seizure was reasonable under the Fourth Amendment. (*People v. Weaver* (2001) 26 Cal.4th 876, 924.)

An investigatory detention of an individual in a vehicle is permissible under the Fourth Amendment if supported by the reasonable suspicion that the individual has violated the law. (*Ornelas v. United States* (1996) 517 U.S. 690, 693.) While reasonable suspicion can arise from less information than required for probable cause, "the officer's suspicion must be supported by some specific, articulable facts that are 'reasonably "consistent with criminal activity." ' " (*People v. Wells* (2006) 38 Cal.4th 1078, 1083 (*Wells*).)

"The guiding principle in determining the propriety of an investigatory detention is 'the reasonableness in all the circumstances of the particular governmental invasion of a citizen's personal security.' [Citations.] In making our determination, we examine 'the totality of the circumstances' in each case. [Citations.] [¶] . . . The officer's subjective suspicion must be objectively reasonable, and 'an investigative stop or detention predicated on mere curiosity, rumor, or hunch is unlawful, even though the officer may

be acting in complete good faith. [Citation.]' [Citation.] But where a reasonable suspicion of criminal activity exists, 'the public rightfully expects a police officer to inquire into such circumstances "in the proper exercise of the officer's duties." [Citation.]' " (*Wells, supra*, 38 Cal.4th at p. 1083.)

The court indicated in its order denying defendant's motion to suppress that it did so based upon its review of the totality of the circumstances. We see no reason to reverse the court's ruling. To the contrary, the court carefully evaluated the facts and determined correctly that there was sufficient reasonable suspicion, objectively speaking, that defendant had been or was engaged in criminal activity, justifying the stop that Nelson arranged.

Specifically, two confidential informants contacted Nelson and provided information that defendant was engaged in drug dealing. The fact that two apparently unrelated people, rather than one, contacted Nelson, although not invulnerable to attack in light of the sparseness of Nelson's testimony about the informants, nonetheless provides some basis for what ultimately was a reasonable suspicion. (*People v. Terrones* (1989) 212 Cal.App.3d 139, 147.)

Regardless, Nelson did not act immediately on the basis of the information these informants provided. Instead, he confirmed the veracity of some of the information they provided by determining that defendant owned a pickup truck and lived in the upper sawmill area of Garberville. This provided a further basis for what ultimately was a reasonable suspicion for the stop.

Nelson, having obtained the license plate number for defendant's truck, next sought to confirm the veracity of the second informant's tip that defendant was about to engage in criminal activity—his potential brokering of a large marijuana deal at a hotel in defendant's home area, the Best Western, over the coming weekend—by asking a deputy to drive by the hotel over the weekend and look for defendant's truck. Nelson believed from his training and experience that drug dealers commonly used hotels in their local areas to conduct illegal drug transactions. Nelson learned from the deputy that the truck

was at the hotel on Saturday, but not Sunday. This provided a further basis for what ultimately constituted reasonable suspicion.

Nelson continued his investigation, as he should have, because the presence of defendant's truck at the hotel on Saturday, but not Sunday, did not necessarily establish more than that defendant had parked in the hotel's lot one day. Furthermore, Nelson had no way of knowing whether or not the purported criminal activity would occur before the end of the weekend, given the informant's information that defendant would be brokering a deal "over" the weekend.

Accordingly, Nelson drove by the Best Western hotel on Monday morning. He saw defendant's truck in the parking lot. He continued his investigation with the surveillance of the truck, and learned information that was very significant to forming what ultimately was reasonable suspicion. First, Nelson saw defendant enter the truck, drive away to a residence, where he spent about 15 minutes, then drive back to the hotel, park, and go into the hotel. From this, it was objectively reasonable for Nelson to suspect that defendant was staying at the hotel.

Second, Nelson observed defendant drive to a nearby hardware store and purchase large bins, which he brought back to the hotel. Defendant went back into the hotel and came out with a bin and duffel bags that he loaded into his truck, and drove away. Nelson testified that this activity was one reason for his suspicion, although he did not explain why. The reason for suspicion is obvious from the activity. It was reasonable for Nelson to suspect that defendant sought to transport something and, given that defendant had gone to the hardware store to purchase the bins, that he had obtained the thing or things to be transported while at the hotel that weekend. When this activity is placed in context with the other information Nelson knew at that time, and given his training and experience, it was objectively reasonable for Nelson to believe that defendant might be transporting something related to the brokering of a large marijuana deal, whether or not that ultimately proved to be correct.

Nelson continued his surveillance. Based on his training and experience, he believed defendant scanned the traffic for evidence that he was being followed while he fueled his truck, another building block towards reasonable suspicion.

Finally, Nelson followed defendant as he drove towards and onto Alderpoint Road. In the course of this activity, Nelson observed or learned that defendant drove off the road twice, once on what appears to have been a side road and a second time onto a turnout while Bates followed behind him. Nelson, drawing from his training and experience, believed defendant could have been engaging in "counter surveillance" driving and, based on his accumulated information, ordered a stop of the vehicle. Nelson was entitled to draw from his training and experience to reach this conclusion. As the People point out, a totality of circumstances standard "allows officers to draw on their own experience and specialized training to make inferences from and deductions about the cumulative information available to them that 'might well elude an untrained person.' " (*United States v. Arvizu* (2002) 534 U.S. 266, 273.) It was reasonable to conclude that defendant, having twice gone off the road toward his home within a short period of time as agents followed him, was engaging in counter surveillance tactics. At this point, the totality of the circumstances justified a reasonable suspicion that defendant was, or had engaged, in criminal activity, i.e., drug dealing.

These circumstances provide a firmer basis for reasonable suspicion than those found to be sufficient by the United States Supreme Court in *Alabama v. White* (1990) 496 U.S. 325 (*White*), in which the court applied the "totality of circumstances" standard articulated in *Illinois v. Gates* (1983) 462 U.S. 213, to determine that there was objectively reasonable suspicion for a stop based on an anonymous tip. (*White*, at p. 328.) A police officer received a telephone call from an anonymous person, who stated that White would be leaving a specific apartment building at a particular time in a particular vehicle to go to a motel in possession of an ounce of cocaine in a brown attaché case. (*Id*. at p. 326.) The officer and a partner went to the apartment building, and observed White leave the building with nothing in her hands and enter the car, which was

in the building parking lot. (*Ibid*.) They followed the vehicle as it took the most direct route towards the motel, and ordered a stop of the vehicle just short of that motel. (*Ibid*.)

Based on these facts, the Supreme Court concluded that, while "not every detail mentioned by the tipster was verified" (*White*, *supra*, 496 U.S. at p. 330) and the case was "close" (*id*. at p. 332), "when the officers stopped [White], the anonymous tip had been sufficiently corroborated to furnish reasonable suspicion that [White] was engaged in criminal activity and that the investigative stop therefore did not violate the Fourth Amendment." (*Id*. at p. 331.) It noted that the court in *Illinois v. Gates*, *supra*, 462 U.S. 213, "gave credit to the proposition that because an informant is shown to be right about some things, he is probably right about other facts that he has alleged, including the claim that the object of the tip is engaged in criminal activity. [Citation.] Thus, it is not unreasonable to conclude in this case that the independent corroboration by the police of significant aspects of the informer's predictions imparted some degree of reliability to the other allegations made by the caller." (*Id*. at pp. 331-332.) The court thought it particularly important that the caller had predicted White's future behavior, since this showed "a special familiarity with [White's] affairs." (*Id*. at p. 332.) "Because only a small number of people are generally privy to an individual's itinerary, it is reasonable for police to believe that a person with access to such information is likely to also have access to reliable information about that individual's illegal activities. [Citation.] When significant aspects of the caller's predictions were verified, there was reason to believe not only that the caller was honest but also that he was well informed, at least well enough to justify the stop." (*Ibid*.)

The second informant in this case was at least equivalent to the anonymous tipster in *White*, *supra*, 496 U.S. 325. Similar to the officer in that case, Nelson confirmed details of the informant's information, including the prediction that defendant would be staying over the weekend at the Best Western, that indicated the information was reliable. Nelson had more indicia of suspicious activity than the officers in *White*, including defendant's purchase of the bins, loading of one bin into his truck at the hotel, suspicious scanning of traffic while fueling, and driving tactics.

Defendant, while discussing *White*, *supra*, 496 U.S. 325, fails to explain why its reasoning does not apply here. Defendant also discusses *Florida v. J.L.* (2000) 529 U.S. 266, in which the Supreme Court found an anonymous tip that a man in a plaid shirt standing at a bus stop was carrying a gun to be an insufficient basis for a pat search of a man in a plaid shirt found at the stop. (*Id*. at p. 274.) However, there is obviously much more corroboration here, rendering that case inapposite.

Defendant analogizes his case to *People v. Saldana* (2002) 101 Cal.App.4th 170. In *Saldana*, an anonymous source provided police with information in two phone calls, stating that the driver of a particular vehicle, parked in a particular place and with a license plate ending in 319, was carrying a gun and a kilo of cocaine. (*Id*. at p. 172.) The police located the car in the parking lot as described nine minutes after the second call, but no one was in the vehicle; defendant entered the vehicle about an hour later, however, and was stopped by police when he drove out of the parking lot. (*Id*. at p. 173.) The Second District concluded that the facts of the case were analogous to those found in *Florida v. J.L.*, *supra*, 529 U.S. 266, since there was an anonymous tip that contained no internal indicia of reliability about the information provided, did not include any predictive behavior that could be corroborated by observation, and stated nothing about the described location that corroborated the criminal element of the tip. Furthermore, there was nothing suspicious about the appellant's observed conduct. (*Saldana,* at p. 175.) Plainly, *Saldana* is as inapposite to the present case as *Florida,* in light of Nelson's further investigation and surveillance.

Defendant also distinguishes the exigent circumstances present in two California Supreme Court cases, in which the court found a sufficiently reasonable suspicion for stops based on phone calls to police about criminal activity, *Wells*, *supra*, 38 Cal.4th 1078, and *People v. Dolly* (2007) 40 Cal.4th 458. We agree with defendant that the facts of those cases are not particularly analogous here. *Wells* involved a call about a driver " 'weaving all over the roadway' " (*Wells*, at p. 1081), and *Dolly* involved a call about a man who had just pulled a gun on the caller (*Dolly*, at p. 462). However, these distinguishing facts do not mean that Nelson did not have sufficient reasonable suspicion

to stop defendant based on the calls from the two informants and his subsequent investigation and surveillance.

Defendant also engages in an extensive discussion of why the various facts and circumstances learned or observed by Nelson were not sufficient to constitute reasonable suspicion. Defendant is not without some arguable theories why this or that circumstance, reviewed alone, might have been viewed less suspiciously. Putting aside the flaws with his theories for a moment, this approach avoids the "totality of the circumstances" approach, and that it is only necessary that Nelson formed an objectively "reasonable suspicion" of criminal activity based on the information available to him.

Defendant contends that the information provided by the callers could not be assessed for veracity and reliability in light of the fact that Nelson did not meet with them, check their records, or record the calls, that the callers did not make statements against penal interest or indicated they were victims of crimes or demonstrated that they were motivated by good citizenship,[2] and that "the specter of after-the-fact police fabrication [was] not eliminated" by these circumstances. While these arguments cannot be entirely discounted, they ignore that it was reasonable to conclude that the multiple calls provided some modicum of reliability, that Nelson verified that defendant's residence and vehicle were consistent with what the informants had told him, and that Nelson obtained significant corroborating information and additional reasons to suspect criminal activity in the course of his subsequent investigation and surveillance.

Defendant also argues that "the record . . . is void of any explanation regarding how the second informant knew [defendant] might broker a drug deal while staying at the hotel. The record is also void of any evidence that the informant supplied any basis for believing he or she had inside information about [defendant]." Defendant further argues

[2] These particular contentions are contained in defendant's reply brief, and flow from his efforts to distinguish the circumstances of his case from those present in some of the cases cited by the People. We do not further discuss these cases or arguments, however, in light of our conclusion that the circumstances of this case created an objectively reasonable suspicion that was greater than that found by the United States Supreme Court in *White*, *supra*, 496 U.S. 325.

that the case lacked any exigent circumstances, that the caller did not provide any specific details about what would occur over the weekend, and that the surveillance did not occur until the following Monday. These arguments ignore the obvious—defendant's truck was seen in the hotel parking lot over the weekend and, given the information provided by the two callers who had contacted Nelson, his corroboration of defendant's residence and vehicle, defendant's presence at the Best Western on Saturday and Monday morning, defendant's suspicious activities at the hotel and on the road on Monday morning, and Nelson's training and experience, Nelson was justified in forming a reasonable suspicion that defendant had engaged, or was in the midst of engaging, in criminal activity.

Defendant also argues that Nelson's investigation and surveillance did not corroborate the alleged criminal activity. He argues that Nelson's testimony, while it referred to the defendant loading a duffel bag and bin into his truck, did not discuss its significance beyond Nelson stating that it was "suspicious." We have already discussed why its significance was obvious, and Nelson's testimony makes clear that he relied on it in the course of forming his reasonable suspicion.

As for Nelson's and Bates's observations as they followed defendant's truck, defendant contends that his scanning of traffic while fueling his truck could have been for innocent reasons, but this ignores Nelson's right to infer things based on his training and experience. Defendant further contends that when he turned off onto a side road as Nelson followed him, he was merely picking up his girlfriend. There is no evidence of this, however, and both Nelson's and Bates's testimony indicate that defendant's time off of Alderpoint Road was very short, no more than a minute or two, making it unlikely that defendant had the time to pick up anyone and return to Alderpoint Road. Defendant further argues that, as Nelson acknowledged in his testimony, it was not unusual for a car in front of another to pull off at a turnout to allow a faster vehicle to pass. However, there was no indication that a faster vehicle was behind defendant's car when he pulled over.

Finally, defendant argues that we live in a day and age when "staycations" in hometown hotels have become commonplace. He argues that, rather than staying at the

hotel to engage in criminal activity, he "could have just as likely be staying at the hotel over the weekend to lay by the pool or enjoy some privacy with his girlfriend." That defendant contends that he could have picked up his girlfriend on his way home from the hotel or could have spent the weekend with her on a "staycation" amply shows the speculative nature of these contentions. We have no reason to reverse the court's decision on the basis of them, given the totality of the circumstances.

DISPOSITION

The judgment is affirmed.

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Lambden, J.

We concur:

_____
Kline, P.J.

_____
Haerle, J.